

Remarks

In response to the Office Action dated May 21, 2007, Applicants respectfully request reconsideration based on the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance. Claims 2, 4, 5, 7, 10, 11, and 19-24 are currently pending and stand rejected.

112 Rejections

Claims 2, 4, 5, 7, 10, 11, and 20-24 stand rejected under 35 USC §112, first paragraph as failing to comply with the written description requirement in that the claims fail to describe the invention in such full, clear, concise and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and set forth the best mode contemplated by the inventor.

Specifically, the Office Action asserts that the specification does not reasonably provide enablement “for non-network requests such as insurance inspections and the like.” Moreover, the Office Action asserts that the specification does not provide enablement for “receiving reports of malfunctions without receiving the notification from a customer.” Applicant respectfully traverses the rejections.

Independent claim 20 recites:

[a] method of processing reports of malfunctions received by a company having a dispatch division and a billing division, the method comprising:

receiving reports of malfunctions and dispatching a technician in response to the reports;

receiving, via a communications network, information sent by the technician upon diagnosing a malfunction at a first subscriber location having a first line number, wherein the information is provided in an electronic format and when analyzed indicates a cause of the malfunction underlying one of the reports of malfunctions sent from a vicinity of the first subscriber location and wherein the cause is at a location other than the first subscriber location, wherein the cost associated with the technician at the first location is recorded in association with the first line number, and wherein the identified cause indicates a range of line numbers that are affected including the first line number;

determining, by the dispatch division and based upon the information sent by the technician upon diagnosing the malfunction at the first subscriber location, that a cause underlying another one of the reports of malfunctions, received from a location different from the vicinity of the first subscriber location and having a second line number, is the same cause identified as underlying the report of malfunction at the first subscriber location due to the second line number being within the range of line numbers that are affected;

identifying, by the company, an entity other than a first subscriber of the first subscriber location that is responsible for the cause; and

utilizing the information, by the billing division, to generate a bill to the entity other than the first subscriber that includes costs incurred at least for diagnosing the malfunction at the first subscriber location by looking up the range of line numbers associated with the cause for which the entity is responsible, finding that the first line number falls within the range, looking up the costs incurred for the first line number, and including the costs incurred for the first line number on the bill to the entity.

The enablement requirement refers to the requirement of 35 USC §112 that the specification describe how to make and use the invention without undue experimentation. (MPEP 2164). Applicants respectfully note that the independent claim 20 does not recite “non-network requests such as insurance inspections”. Similarly, independent claim 20 does not recite the recitation of “receiving reports of malfunctions without first receiving a notification from a customer.” As such, the Office Action is apparently requiring that the specification enable subject matter that is not recited in the claims. Applicants respectfully assert that it is improper to require that the specification must enable subject matter that is not part of the claimed invention. (MPEP 2164).

Further, assuming without conceding that Applicants must enable subject matter not claimed, Applicants respectfully assert that the Examiner has failed to establish a reasonable basis to question the enablement provided for the claimed invention. *In Re Wright*, 999 F.2d 1557; MPEP 2164.04). The minimum requirement is for the examiner to give reasons for the uncertainty of the enablement. (MPEP 2164.04). Applicants respectfully assert the terse and conclusory §112 rejections fail to rise to the standard of MPEP 2164.04 because they do not present any reasons for concluding non-enablement.

More specifically, Applicants respectfully point out that the Examiner has failed to apply any of the *Wands* factors to establish sufficient evidence to support a determination that a disclosure does not satisfy the enablement requirement and to whether any experimentation is undue. It is improper to conclude that a disclosure is not enabling based on an analysis of only one factor, let alone none of the factors. The Examiner’s analysis must consider all evidence related to *each* of these factors, and any conclusion of nonenablement must be based on the evidence as a whole. (MPEP 2164.01(a)). Because the Examiner has failed to establish a reasonable basis to question enablement in accordance with the standards of MPEP 2164, discussed above, the

Applicants suggest that the §112 rejections are improper and may be withdrawn.

As such independent claim 20 is allowable for at least these reasons. Independent claim 23 recites similar subject matter and is allowable for at least these same reasons. Claims 2, 4-5, 7, 10-11, 19, 21-22 and 24 depend from allowable independent claims 20 and 23 and are allowable for at least the same reasons.

Conclusion

Applicants respectfully assert that the application including claims 2, 4, 5, 7, 10, 11, and 19-24 is in condition for allowance. Applicants request reconsideration in view of the remarks and amendment above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: August 21, 2007

/Arno Naeckel/

Arno Naeckel

Reg. No. 56,114

Withers & Keys, LLC
P.O. Box 71355
Marietta, Ga 30007-1355
(770) 518-9822